

IN RE: PETITION FOR ZONING VARIANCE
SE/S Jarrettsville Pike w/est.
southernmost RM Merrymans Mill
13901 Jarrettsville Pike
10th Election District
3rd Councilmanic District
Renato Casalena
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 90-420-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a variance from Section 413.1 to permit a sign for a home, occupational or professional purposes, of 16 sq. ft. in lieu of a permitted sign of 1 sq. ft., as more particularly described on Petitioner's Exhibit No. 1.

The Petitioner, Renato Casalena, appeared and testified. Appearing and testifying on behalf of the Petition was Loretta Neumyer. Appearing as Protestants were Ann and Lewis Zinkman and Van Strakes.

Testimony indicated that the subject property, known as 13901 Jarrettsville Pike consists of .399 acres +/-, zoned R.C.4 and is improved with an existing family dwelling and accessory garage.

Testimony indicated that the Petitioner is desirous of placing commercial signage on his residentially zoned property with a square footage of 16 square feet in lieu of the permitted 1 sq. ft. pursuant to Section 413.1 of the Baltimore County Zoning Regulations (B.C.Z.R.).

The Petitioner testified that he operates a commercial business from his home and is desirous of advertising this commercial activity by way of the proposed signage. Although admitting that he was operating some type of commercial enterprise from his home, the Petitioner was unclear regarding the particulars of this commercial activity. The Petitioner testified

that he is currently utilizing a 1 sq. ft. sign, but contends that this signage is too small to adequately advertise his business. He also stated that he had received a citation for the larger sign which was on the property at one time, but has removed same pending the outcome of this hearing.

Ms. Loretta Neumyer testified that her property adjoins Petitioner's property to the north and testified that she has no objection to Mr. Casalena's request.

Mr. Lewis Zinkman testified that Petitioner's property is located at the intersection of Jarrettsville Pike and Merrymans Mill Road which has been the location of numerous automobile accidents. Mr. Zinkman testified that Petitioner had located the subject sign only 6 feet off Jarrettsville Pike, a high speed thoroughfare, and has spotlights illuminating the signage which tends to "blind" drivers traveling along Jarrettsville Pike. Mr. Zinkman also testified that Petitioner's commercial use of the subject property is not appropriate for this zone or community.

Mrs. Zinkman testified that she concurred with the testimony of her husband.

Mr. Van Strakes testified that he lives on the other side of Jarrettsville Pike from the Petitioner and is opposed to Petitioner's signage request and commercial activity on the subject property.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. *McLean v. Soley*, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

In reviewing the evidence, there is insufficient evidence to allow a finding that the Petitioner would experience practical difficulty or unreasonable hardship if the requested variance was denied. It is procedurally inappropriate to grant a sign for a business in a residential zone that may be operating in contradiction to the B.C.Z.R. On this point, Petitioner can claim no surprise.

Pursuant to a zoning violation in case No. 90-110, regarding Petitioner's illegal signage, Mr. Casalena was advised by correspondence from the Deputy Zoning Commissioner, Ann Nastarowicz, that he would be required to file a Petition for Special Hearing to determine the status of his commercial venture on the subject site and whether such activity was permitted by the B.C.Z.R. Mr. Casalena decided not to file the Special Hearing and only filed the subject Petition for Zoning Variance; in essence, "putting the cart before the horse". It is not only inappropriate, but without legal justification to grant a sign variance for a business that may or may not be permitted in the subject zone. This is particularly true in view of the specific facts of this case. Some of the evidence tends to suggest a Special Exception for a professional studio may be necessary. There is insufficient evidence to allow a finding that the Petitioner would experience practical difficulty or unreasonable hardship if the

requested variance was denied. The Petitioner has failed to show that compliance would unreasonably prevent the use of the property or be unnecessarily burdensome. Therefore, the variance requested must be denied.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 2nd day of May, 1990 that the Petition for a Zoning Variance to permit a sign for a home, occupational or professional purposes, of 16 sq. ft. in lieu of a permitted sign of 1 sq. ft., in accordance with Petitioner's Exhibit No. 1, is hereby DENIED.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:mmm
cc: Peoples Counsel

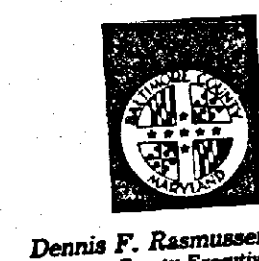
ORDER RECEIVED FOR FILING
Date 5/2/90
By M. J. Smith

ORDER RECEIVED FOR FILING
Date 5/2/90
By M. J. Smith

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

April 30, 1990



Mr. Renato Casalena
13901 Jarrettsville Pike
Phoenix, Maryland 21131

RE: Petition for Zoning Variance
Case No. 90-420-A

Dear Mr. Casalena:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been denied, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,
J. Robert Haines
Zoning Commissioner

JRH:mmm
encl.
cc: Peoples Counsel
cc: Protestants

PETITION FOR ZONING VARIANCE
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-420-A
The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 413.1 To permit a sign for a home, occupational or professional purposes, of 16 square feet in lieu of a permitted sign of 1 square foot.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)
① EXEMPT INVESTED ON SIGN ALREADY OWNED
② SIGN IS NOT VISIBLE ON BUSY THORNTON
③ SIGN ALTERED TO CONFORM WITH COMMUNITY
④ THE ADVERTISEMENT OFFERED BY THE SIGN IS AN ESSENTIAL PART OF THE BUSINESS.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:
(Type or Print Name)
Signature
City and State
Address
City and State
Attorney for Petitioner:
(Type or Print Name)
Signature
City and State
Address
City and State
Attorney's Telephone No.:
Legal Owner(s):
(Type or Print Name)
Signature
(Type or Print Name)
Signature
City and State
Address
City and State
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Name
Address
City and State
Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 7 day of March, 1990, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 24 day of April, 1990, at 2 o'clock P.M.

ORDER RECEIVED FOR FILING
Date 5/2/90
By M. J. Smith

ESTIMATED LENGTH OF HEARING - 1/2 HR.
AVAILABLE FOR HEARING
MON./TUES./WED. - NEXT TWO WEEKS
ALL OTHER
REVIEWED BY: J. Robert Haines
DATE 5/13/90

Beginning at a point on the southeast side of Jarrettsville Pike at where the point of intersection with the southern most right of way line of Merrymans Mill Road being known as 13901 Jarrettsville Pike in the 10th Election District.

receipt
No 1373
Baltimore County
Zoning Commissioner
County Office Building
311 West Chesapeake Avenue
Towson, Maryland 21204
Date 2/13/90
PUBLIC HEARING FEES QTY PRICE
010 - ZONING VARIANCE (IRL) 1 X \$35.00
TOTAL: \$35.00
LAST NAME OF OWNER: CASALENA
8 8123*****3500: a 5144F
Please make checks payable to: Baltimore County

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland
District 10th
Posted for: Variance
Petitioner: Renato Casalena
Location of property: SE/S Jarrettsville Pike, southernmost RM Merrymans Mill Rd, 13901 Jarrettsville Pike
Location of Sign: Along eastern side of Jarrettsville Pike, across 10th right of way, on property of J. Robert Haines
Remarks: Method
Posted by: J. Robert Haines
Number of Signs: 1
Date of Posting: 4/6/90
Date of return: 4/13/90

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner
DATE: March 27, 1990
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: Renato Casalena, Item 264

The Petitioner requests a Variance to permit a sign for a home occupation or for professional purposes.

In reference to this request, staff offers the following:

- The Petitioner's property is subject to a zoning violation (Case No. 90-110).
- The Petitioner was encouraged at the time of filing to request a Special Hearing to determine the "legitimate residential use" of his residence.

Based on the information provided and the analysis conducted, staff recommends the Petitioner's request be denied until such time as the alleged zoning violation case is resolved.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
County Office Building, Suite 405
Towson, Maryland 21204
(301) 887-3554

March 9, 1990



Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 259, 261, 262, 263, 264, 265, 266, 267, 268, and 270.

Very truly yours,

Michael S. Flanagan
Michael S. Flanagan
Traffic Engineer Assoc. II

MSF/lab

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

Paul H. Reincke
Chief

MARCH 14, 1990



Dennis F. Rasmussen
County Executive

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: RENATO CASELENA
Location: #13901 JARRETTVILLE PIKE
Item No.: 264 Zoning Agenda: MARCH 6, 1990

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *Ch. J. Kelly 3-14-90* Noted and Approved *Cap. Reincke 3-14-90*
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/KEK

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: March 5, 1990
FROM: Robert W. Bowling, P.E.
RE: Zoning Advisory Committee Meeting
for March 6, 1990

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 262, 263, 264, and, 266.

For Item 259 the previous County Review Group comments remain in effect.

For Item 261 the minimum width for a single panhandle frontage is 20 feet (12 feet is shown). The septic area on the opposite side of the road would require crossing of the public road R/W with private sewer line (which would require a franchise agreement).

For Items 265, 269 and 270, a County Review Group Plan may be required for each property.

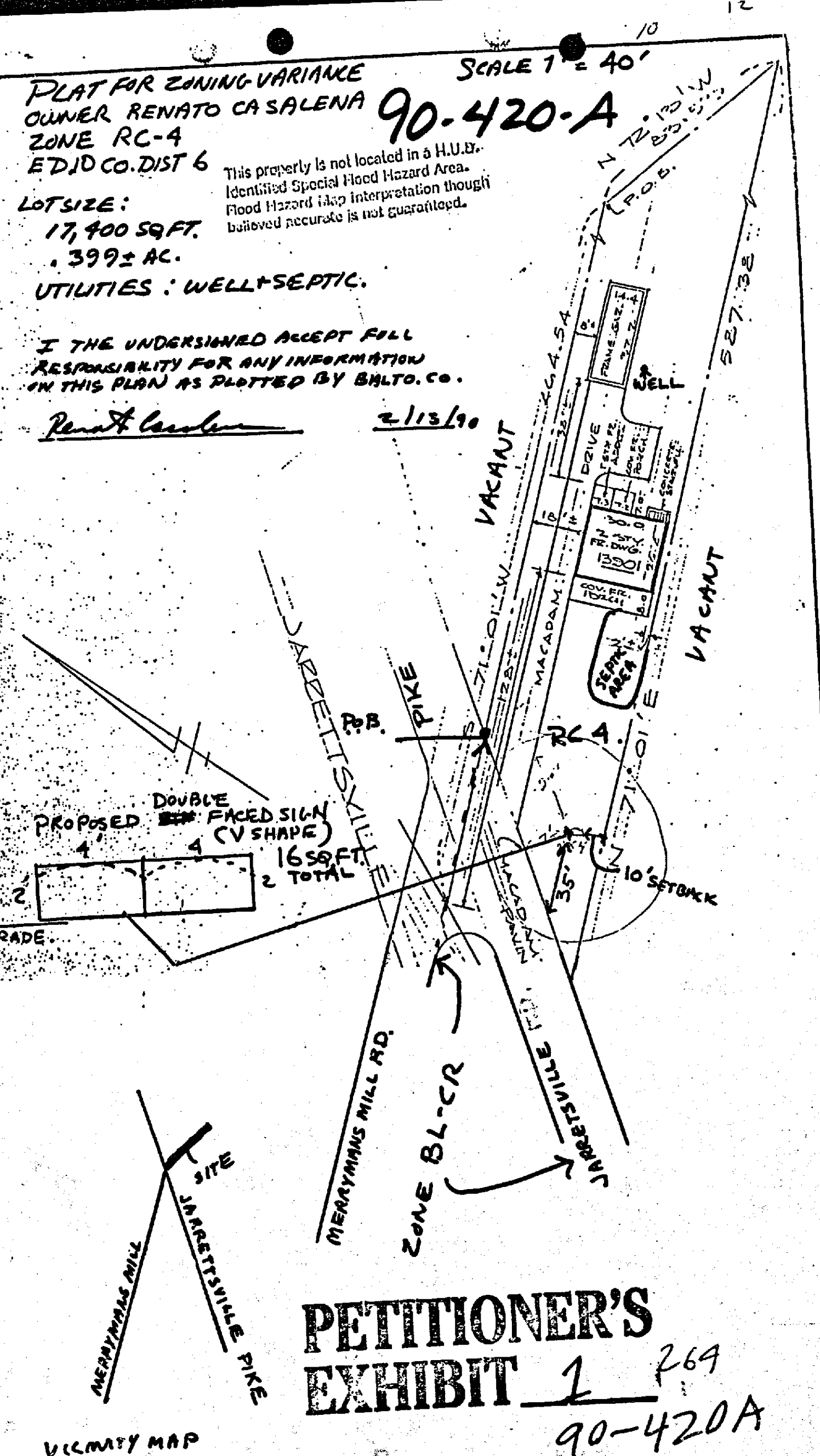
For Items 267 and 268 the previous County Review Group comments remain in effect.

For Item #203 revised - Caves Valley Gold Club - the previous County Review Group comments still apply.

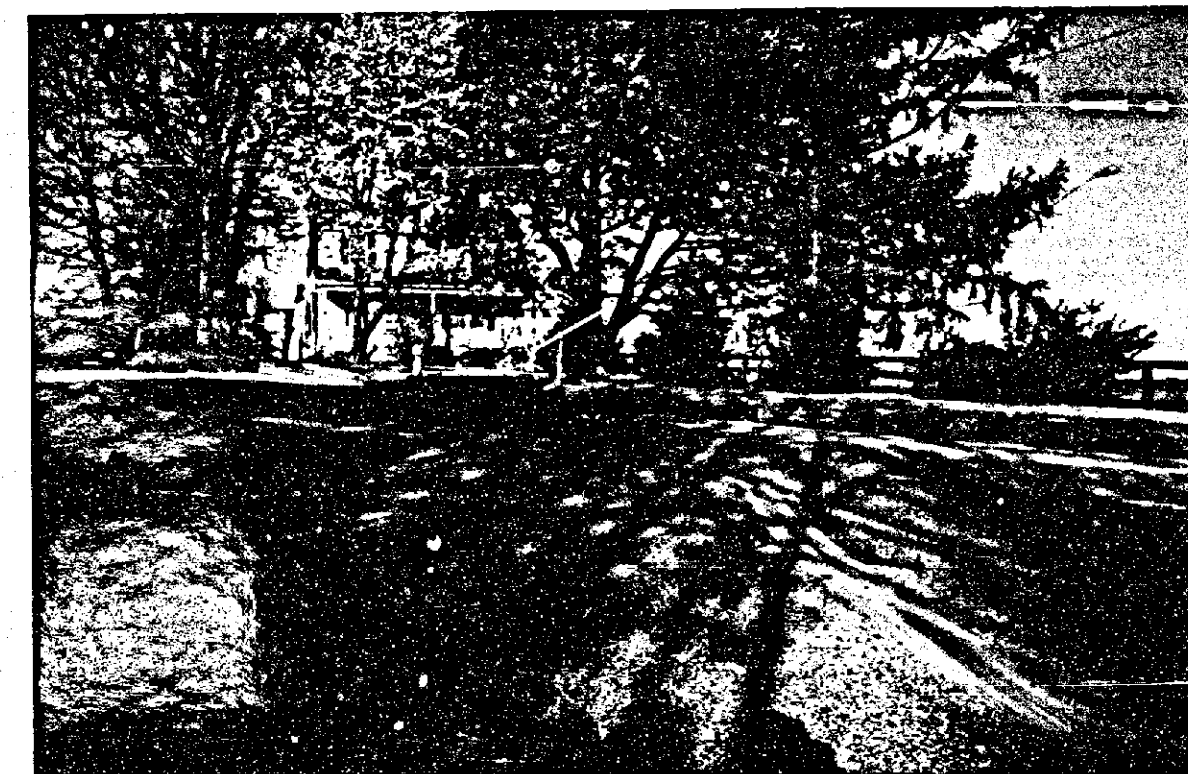
Amendment for 90-154A - No. 819 Ridgeleigh Road, we have no comments.

Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWB:s



PROTESTANT(S) EXHIBIT (1)



PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
<i>Ann H. Zwikha</i>	<i>13415 JARRETTVILLE PIKE</i>
<i>Lewis H. Zwikha</i>	<i>13415 JARRETTVILLE PIKE</i>
<i>Van P. Strates</i>	<i>13910 JARRETTVILLE PIKE</i>

90-420A

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
<i>Loetta Neumyer</i>	<i>13911 Jarrettville Pike</i>
	<i>Pharmax Md. 21131</i>



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J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:mmm
cc: Peoples Counsel

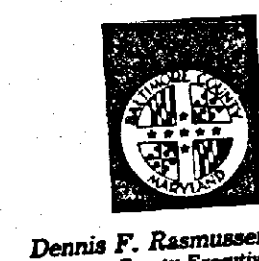
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Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

April 30, 1990



Mr. Renato Casalena
13901 Jarrettsville Pike
Phoenix, Maryland 21131

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Very truly yours,
J. Robert Haines
Zoning Commissioner

JRH:mmm
encl.
cc: Peoples Counsel
cc: Protestants

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Property is to be posted and advertised as prescribed by Zoning Regulations.

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I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:
(Type or Print Name)
Signature
City and State
Address
City and State
Attorney for Petitioner:
(Type or Print Name)
Signature
City and State
Address
City and State
Attorney's Telephone No.:
Legal Owner(s):
(Type or Print Name)
Signature
(Type or Print Name)
Signature
City and State
Address
City and State
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Name
Address
City and State
Phone No.

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Date 5/2/90
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ESTIMATED LENGTH OF HEARING - 1/2 HR.
AVAILABLE FOR HEARING
MON./TUES./WED. - NEXT TWO WEEKS
ALL OTHER
REVIEWED BY: J. Robert Haines
DATE 5/13/90

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receipt
No 1373
Baltimore County
Zoning Commissioner
County Office Building
311 West Chesapeake Avenue
Towson, Maryland 21204
Date 2/13/90
PUBLIC HEARING FEES QTY PRICE
010 - ZONING VARIANCE (IRL) 1 X \$35.00
TOTAL: \$35.00
LAST NAME OF OWNER: CASALENA
B 8123*****3500: a 5144F
Please make checks payable to: Baltimore County

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland
District 10th
Posted for: Variance
Petitioner: Renato Casalena
Location of property: SE/S Jarrettsville Pike, southernmost RM Merrymans Mill Rd, 13901 Jarrettsville Pike
Location of Sign: Along eastern side of the property, 10' from road way, on property of J. Robert Haines
Remarks: Method
Posted by: J. Robert Haines
Number of Signs: 1
Date of Posting: 4/6/90
Date of return: 4/13/90

